

Exhibit 51

Deposition of Andrew Zimbalist, Ph.D.
(September 25, 2017) (excerpted)

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

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Cung Le, Nathan Quarry, John Fitch
Brandon Vera, Luis Javier Vazquez,
and Kyle Kingsbury on behalf of
themselves and all others
similarly situated, Case No.

Plaintiffs, 2:15-cv-01045-RFB(PAL)

v.

Zuffa, LLC, d/b/a Ultimate,
Fighting Campionship and UFC,
Defendants.

- - - - - x

HIGHLY CONFIDENTIAL
VIDEOTAPED DEPOSITION OF
ANDREW ZIMBALIST, Ph.D.
Northampton, Massachusetts

Magna Legal Services Reported By:

(866) 624-6221 MaryJo O'Connor, RMR/CSR
Www.MagnaLS.com Job No: 345726

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1 A. I can't point you to any journal 01:05:51	01:05:54	1 Q. But you've already told me, 01:08:00	01:08:00
2 article. 01:05:54		2 however, you would not do a benchmark 01:08:00	
3 Q. In picking a yardstick, would you 01:05:55	01:06:07	3 analysis. You wouldn't even have taken the 01:08:04	
4 agree with the statement that you should 01:06:07		4 case if you're doing a benchmark analysis 01:08:05	
5 identify a firm or firms that are similar 01:06:09	01:06:14	5 based on only one of the sports. 01:08:07	
6 to Zuffa in all respects except for the 01:06:14		6 A. No, you were talking about 01:08:08	
7 impact of the alleged antitrust violation? 01:06:18		7 identifying multiple variables of 01:08:10	
8 A. I believe that, as I said a 01:06:22		8 influence. 01:08:12	
9 moment ago, that you try to pick 01:06:26		9 Q. All right. Am I correct that if 01:08:12	
10 comparators that have as much in common 01:06:29		10 you were doing a benchmark analysis based 01:08:13	
11 with the base enterprise or industry as 01:06:32		11 on only one of the five sports, you would 01:08:18	
12 possible but vary in the important respect 01:06:34		12 have declined to do that analysis? 01:08:21	
13 that you're trying to identify. 01:06:38		13 A. No. Again, the context in which 01:08:23	
14 Q. So what you have said is slightly 01:06:43		14 you asked me that was you wanted me to 01:08:25	
15 different than what I said, and I want to 01:06:45		15 produce a methodology and be able to 01:08:29	
16 explore that. 01:06:47		16 separate out various causal influences on 01:08:31	
17 So you're using the phrase "as 01:06:48		17 the share being paid to labor. 01:08:34	
18 much in common," and I'm using "similar in 01:06:51		18 If I had boxing data for enough 01:08:37	
19 all respects except for the impact of the 01:06:54		19 years, I could do a multiple regression 01:08:40	
20 alleged antitrust violation," right? 01:06:56		20 analysis that might have enough data in it 01:08:44	
21 A. Okay. 01:06:58		21 and might enable me to make a different 01:08:46	
22 Q. Is it the appropriate standard 01:06:58		22 kind of an estimate. Which to my mind it's 01:08:49	
23 that you should identify a firm or firms 01:07:05		23 always preferable to have more data and, in 01:08:51	
24 that are similar to Zuffa in all respects 01:07:07		24 this case, to have more sports, more 01:08:55	
25 except for the impact of the alleged 01:07:09		25 comparators, than fewer comparators. 01:08:58	
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1 antitrust violation? 01:07:11		1 Q. Would you have taken the case if 01:09:02	
2 MR. CRAMER: Objection. Asked 01:07:13		2 you were asked to do a benchmark analysis 01:09:04	
3 and answered. Also object to the 01:07:13		3 based on a comparison to boxing with the 01:09:06	
4 extent it calls for a legal 01:07:16		4 data you have? 01:09:08	
5 conclusion. But asked and answered, 01:07:17		5 MR. CRAMER: Incomplete 01:09:11	
6 and form. 01:07:18		6 hypothetical. Form. 01:09:13	
7 A. If you're asking me -- 01:07:19		7 A. So if I knew what I know today in 01:09:14	
8 Q. My question is -- 01:07:21		8 terms of the amount of boxing data that I 01:09:19	
9 A. If you're asking me wouldn't it 01:07:22		9 have -- 01:09:22	
10 be desirable to have everything exactly the 01:07:24		10 Q. Yes. 01:09:22	
11 same except the level of competition, I 01:07:26		11 A. -- and I was back in last 01:09:22	
12 would say yes. 01:07:28		12 December when I was approached about 01:09:24	
13 We're doing the real world, not a 01:07:29		13 working on this case, would I have taken 01:09:26	
14 laboratory experiment here, and so you try 01:07:32		14 the case? 01:09:28	
15 to find as much as possible in common 01:07:34		15 Q. Correct. 01:09:29	
16 except for the variable that you're trying 01:07:36		16 A. I would have to think about it. 01:09:29	
17 to identify the impact of. That's what I 01:07:38		17 Q. Now, going back to -- I 01:09:30	
18 believe. 01:07:40		18 understand you've told me what would be 01:09:41	
19 Now, if you want to use just 01:07:40		19 desirable -- it would be desirable to have 01:09:44	
20 [REDACTED] [REDACTED]		20 everything exactly the same. That's not my 01:09:46	
21 percentage, because I didn't consider some 01:07:46		21 question. 01:09:48	
22 higher percentage information, if you want 01:07:49		22 In the standards of your 01:09:48	
23 to use just boxing, I'll come out with 01:07:52		23 profession as an economist conducting a 01:09:50	
24 larger. And they're not identical in other 01:07:55		24 yardstick analysis, do you agree that using 01:09:52	
25 respects, but they're very similar. 01:07:58		25 a yardstick approach you should attempt to 01:09:56	

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1 that in individual cases there would be 02:45:14	02:45:18	1 Q. Yes. 02:46:57	02:46:57
2 argumentation as well. 02:45:18		2 A. A competitive relationship 02:46:57	
3 But, yes, I can see the argument 02:45:20		3 between the two? 02:46:59	
4 that would support that. 02:45:22		4 Q. Yes. 02:47:00	
5 Q. Do you agree that exclusive 02:45:23	02:45:25	5 A. I do have an opinion. 02:47:00	
6 contracts may be pro-competitive by 02:45:25		6 Q. What is that? 02:47:02	
7 encouraging long-term usually advantageous 02:45:27		7 A. That there is not. 02:47:03	
8 business relationships? 02:45:29		8 Q. You mentioned before some other 02:47:08	
9 MR. CRAMER: Objection to form. 02:45:29		9 sports that were mentioned in Zuffa 02:47:22	
10 Incomplete hypothetical. Objection 02:45:30		10 articles. There are, obviously, other 02:47:25	
11 to the extent it calls for a legal 02:45:31		11 sports besides -- 02:47:27	
12 conclusion. 02:45:33		12 A. Right. 02:47:28	
13 A. And could you read it one more 02:45:33		13 Q. -- besides the five you've 02:47:29	
14 time? 02:45:35		14 chosen. 02:47:31	
15 Q. Do you agree within your -- as an 02:45:35	02:45:38	15 A. Yes. 02:47:31	
16 economist that exclusive contracts may be 02:45:38		16 Q. Can you consider using as 02:47:33	
17 pro-competitive by encouraging long-term 02:45:40		17 potential yardsticks other sports than the 02:47:35	
18 mutually advantageous business 02:45:44		18 five you selected such as soccer, tennis, 02:47:37	
19 relationships? 02:45:44		19 golf? 02:47:40	
20 A. I think so, but -- 02:45:49		20 A. Yes. 02:47:40	
21 MR. CRAMER: Objection to form. 02:45:49		21 Q. And you didn't select them. Why? 02:47:41	
22 A. I think so. But I think only in 02:45:49		22 MR. CRAMER: Compound question. 02:47:45	
23 the context where the contracts are entered 02:45:51		23 Go ahead answer. 02:47:48	
24 into a competitive framework. 02:45:52		24 Q. I think we agree you didn't 02:47:53	
25 Q. And when you say "an exclusive 02:45:53		25 select them. 02:47:57	
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1 contract is entered into a competitive 02:46:01	02:46:03	1 A. I would first like to explain 02:47:58	
2 framework." 02:46:03		2 that on many occasions I was nodding at 02:47:59	
3 A. No. Entered into in a 02:46:04		3 counsel and the court reporter asked me to 02:48:04	
4 competitive framework. 02:46:05		4 speak out. So rather than nod, sometimes I 02:48:04	
5 Q. Well, I'm talking about exclusive 02:46:06		5 say yes. I didn't mean to interrupt. 02:48:06	
6 contracts here. 02:46:08		6 So, counsel, are you with me? 02:48:09	
7 A. Right. 02:46:09		7 Q. I'm with you. Don't worry about 02:48:15	
8 Q. Okay. So what is an exclusive 02:46:10		8 me. 02:48:18	
9 contract that's entered into in a 02:46:11		9 A. All right. So with regard to 02:48:18	
10 competitive framework? 02:46:13		10 soccer, I don't know if you'd like me to 02:48:19	
11 MR. CRAMER: Objection to form. 02:46:14		11 talk about MLS or European leagues, but 02:48:22	
12 Incomplete hypothetical. 02:46:15		12 we're mostly talking about the U.S. market. 02:48:26	
13 A. The two parties that enter into 02:46:15		13 There is something called Major League 02:48:29	
14 the contract, the one that is selling the 02:46:22		14 Soccer. Major League Soccer is what is 02:48:32	
15 service is an entity that has an option to 02:46:25		15 known as a single entity. They hire -- 02:48:33	
16 sell to others so that they can enter into 02:46:30		16 Q. Can I make -- I apologize for 02:48:36	
17 the contract but get competitive bids for 02:46:34		17 interrupting. I want to make sure you're 02:48:39	
18 the service that they're offering. 02:46:37		18 answering the question because we kind of 02:48:41	
19 Q. And do you have an opinion one 02:46:38		19 got off the question. 02:48:42	
20 way or another whether there is a 02:46:44		20 Can you explain to me why you 02:48:43	
21 competitive environment currently within 02:46:45		21 didn't include MLS. I think you are, but I 02:48:45	
22 the MMA industry, at least between Bellator 02:46:48		22 want to make sure we have it in the record. 02:48:48	
23 and UFC? 02:46:53		23 Would you explain to me why you 02:48:50	
24 A. Whether there is a competitive 02:46:54		24 did not include MLS as one of your 02:48:52	
25 environment? 02:46:56		25 yardsticks or benchmarks? 02:48:54	

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1	A. Yes. So, as I said, MLS went 02:48:56	1	addresses. Their policy addresses the 02:51:29
2	through a court case in 1999, and the 02:48:58	2	amount that they pay. 02:51:31
3	District Court decided that it was a single 02:49:01	3	In terms of women's tennis, it's 02:51:32
4	entity. And they do all of their hiring, 02:49:03	4	largely the same situation. It's run by 02:51:33
5	except Beckham exception players, through 02:49:10	5	the WTA. And that also coordinates 02:51:36
6	the central office. 02:49:15	6	activity with the Tennis Association of 02:51:39
7	That is to say, there is a fellow 02:49:16	7	England, Tennis Association of France and 02:51:43
8	sitting in their office, their headquarters 02:49:18	8	Tennis Association of Australia for the 02:51:47
9	in New York City, who hires all the players 02:49:20	9	grand slams. It's a single employer. 02:51:49
10	and then allocates them to the teams, 02:49:24	10	Q. Why didn't you use NASCAR as a 02:51:51
11	except for the Beckham exception players. 02:49:26	11	potential benchmark? 02:51:55
12	So it's basically a monopsony, 02:49:30	12	A. NASCAR is a monopoly in the 02:51:57
13	maybe slightly modified at the edges. It 02:49:36	13	stockcar racing industry. It is the sole 02:52:03
14	would be an inappropriate benchmark for 02:49:39	14	sanctioning body. It also owns -- the 02:52:08
15	seeing what would happen in Zuffa if there 02:49:41	15	people who own NASCAR, which is the France 02:52:11
16	were competitive labor markets because 02:49:44	16	family, also own the International Speedway 02:52:16
17	there are not competitive labor markets in 02:49:45	17	Corporation, which owns most of the tracks 02:52:19
18	MLS. 02:49:47	18	that NASCAR races on. And they, again, get 02:52:21
19	I think you asked me about tennis 02:49:49	19	to set prices. 02:52:24
20	and golf as well? 02:49:50	20	Q. And why didn't you use any firms 02:52:34
21	Q. I also want to know why didn't 02:49:52	21	outside of sports as a benchmark? 02:52:37
22	you use professional tennis as a benchmark? 02:49:54	22	A. I was looking for benchmarks and 02:52:43
23	A. So I'll answer that with respect 02:49:57	23	comparators that had as much similarity as 02:52:46
24	to men's tennis. And if you want to ask me 02:50:02	24	possible with Zuffa, with MMA. 02:52:49
25	about women's tennis afterwards, you can. 02:50:05	25	Q. And why would, for example, the 02:52:55
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1	Men's tennis is governed by the 02:50:09	1	Major League Baseball have more 02:53:04
2	Association of Tennis Professionals, or 02:50:11	2	similarities to Zuffa than every other firm 02:53:07
3	ATP. They set the rules. They set the 02:50:14	3	outside of sports? Is it just because it's 02:53:11
4	prize money. They collaborate with the 02:50:17	4	a sport? 02:53:14
5	grand slams. And if you want to be -- if 02:50:19	5	A. No. Their revenue streams are 02:53:15
6	you want to participate in the grand slams, 02:50:24	6	similar to each other. They're selling 02:53:18
7	if you want to be recognized in the major 02:50:27	7	tickets, they're selling media rights and 02:53:21
8	tournaments, if you want to be nationally 02:50:29	8	television rights. They're selling 02:53:25
9	and internationally ranked, you play in the 02:50:31	9	sponsorships. They have to cover on the 02:53:28
10	ATP tournaments. They, too, are a single 02:50:34	10	cost side. They have to cover the cost of 02:53:29
11	employer. 02:50:37	11	their athletic talent. They have to either 02:53:31
12	Q. Does the Men's Tennis Association 02:50:39	12	rent or pay for in another way the 02:53:35
13	have anything to do with determining -- 02:50:50	13	facilities that they're playing in. They 02:53:37
14	what are the constraints that the men's 02:50:56	14	have to pay in one measure or another for 02:53:38
15	tennis -- the ATP puts on the percentage of 02:50:58	15	the travel of the athletes. 02:53:40
16	revenue that's paid to the men's tennis 02:51:01	16	But the structure and the nature 02:53:42
17	players? 02:51:05	17	of the items that are involved on the 02:53:44
18	A. They apply no such constraint. 02:51:05	18	revenue side and the cost side are very 02:53:46
19	Q. I have the same questions about 02:51:08	19	similar. 02:53:48
20	professional women's tennis. How -- 02:51:11	20	Q. So why didn't you include any 02:53:48
21	A. Okay. However, if I could, what 02:51:13	21	firms outside of sports that sell tickets 02:53:50
22	they set is the prize money, the purse. 02:51:16	22	and media rights? 02:53:53
23	And each tournament has an expected 02:51:18	23	A. Well, one of the reasons I didn't 02:53:55
24	revenue. So implicitly they're ballparking 02:51:21	24	look further, other than to have a footnote 02:54:02
25	a share, but that's not what their policy 02:51:26	25	about the movie industry, which you were 02:54:05

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1	kind enough to notice, is because I'm a	02:54:09	1 and cost structures, where I didn't	02:56:22
2	sports economist and I understand the	02:54:11	2 understand the nuances as well and where I	02:56:25
3	supports industry and I might have gone out	02:54:13	3 wouldn't necessarily get access to data.	02:56:27
4	and looked for Showcase Cinemas, for	02:54:15	4 Q. You've answered this question,	02:56:29
5	instance. They sell tickets. They don't	02:54:19	5 but that was such a long answer that need	02:56:32
6	sell television rights, but they sell	02:54:21	6 to get it down to that last part.	02:56:34
7	tickets.	02:54:24	7 You said you didn't go fishing,	02:56:37
8	So I might have tried to find	02:54:24	8 because of the knowledge you already had	02:56:40
9	some of those firms, but I don't know a	02:54:26	9 about the sports industry. You didn't	02:56:42
10	great deal about them. And I felt	02:54:28	10 investigate the firms that would have been	02:56:44
11	comfortable with the nature of what happens	02:54:29	11 potential yardsticks outside of the sports	02:56:46
12	in the sports leagues and the team sports	02:54:34	12 industry; is that correct?	02:56:48
13	leagues and in boxing to say that it's	02:54:36	13 MR. CRAMER: Objection to form.	02:56:48
14	sufficiently similar and that I can account	02:54:38	14 Asked and answered. He gave you the	02:56:50
15	for and understand any differences with	02:54:41	15 answer. If you'd like him to restate	02:56:51
16	Zuffa. And so I chose them.	02:54:43	16 it, you can.	02:56:53
17	Q. Is it fair to say that because of	02:54:46	17 MR. ISAACSON: I would like him	02:56:54
18	your background and knowledge with sports	02:54:48	18 to answer the question I just gave.	02:56:57
19	economics that you didn't investigate as	02:54:56	19 A. Yes, so I agree with part of your	02:56:59
20	potential yardsticks firms that were out --	02:54:58	20 answer, but you misstated or you	02:57:01
21	that were not in the sports industry?	02:55:02	21 understated my response. As a part of it	02:57:02
22	MR. CRAMER: Objection to form.	02:55:04	22 had to do with similarity and a part of it	02:57:04
23	A. Part of the story is gaining	02:55:06	23 had to do with access to information.	02:57:07
24	access to information. The sports industry	02:55:09	24 Q. Is there some reason from the	02:57:09
25	has an enormous amount that's written about	02:55:11	25 point of view of economics that assuming a	02:57:13
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1	it in detail. There are agencies out there	02:55:14	1 software company is in a competitive	02:57:17
2	and magazines out there and reporters out	02:55:18	2 industry and assuming a sports company is	02:57:19
3	there like Forbes and like Spotcast, Spot	02:55:19	3 in a competitive industry, that the	02:57:22
4	Track rather, that make it their business	02:55:23	4 percentage of revenue paid to labor would	02:57:25
5	to gather information from teams and	02:55:25	5 be different?	02:57:29
6	assemble data.	02:55:27	6 A. It has to do with the technology	02:57:30
7	I also have contact with the	02:55:31	7 of the production process. Right? I mean,	02:57:33
8	leagues and the labor associations, with	02:55:33	8 some production processes are very capital	02:57:37
9	the commissioner's offices. I was able to	02:55:36	9 intensive and some are very labor	02:57:40
10	gather additional data from them.	02:55:39	10 intensive. Sports are very labor	02:57:42
11	What I always do when I do legal	02:55:42	11 intensive, as a general matter.	02:57:44
12	consulting, when I do expert work is to try	02:55:47	12 So I'd want to be comparing it to	02:57:45
13	to limit the amount of wasted time that I	02:55:50	13 industries that are similar in the sense	02:57:50
14	engage in. And I felt, A, that it's the	02:55:52	14 that they're labor intensive. Software	02:57:51
15	sports industry and has the same basic	02:55:56	15 companies are probably pretty capital	02:57:53
16	revenue sources and the same nature of	02:55:59	16 intensive. You wouldn't expect the same	02:57:55
17	costs.	02:56:02	17 kind of labor share.	02:57:58
18	B, that I understand it. And I	02:56:02	18 The labor share is determined by	02:57:59
19	understand some of the nuances of these	02:56:05	19 the productivity of the labor times the	02:58:01
20	industries.	02:56:07	20 number of laborers. Productivity of labor	02:58:05
21	And, C, that I had much better	02:56:08	21 is much higher when it's more capital	02:58:08
22	access to the data that I would need. So	02:56:11	22 intensive.	02:58:10
23	that it made little sense in my mind for me	02:56:14	23 Q. Can I ask you to look at	02:58:11
24	to go out fishing for some other industries	02:56:18	24 Paragraph 91 of your report?	02:58:17
25	that might have similar structures, revenue	02:56:20	25 A. I'm there.	02:58:34